



Consumer Federation of America

BY FAX

January 13, 1998

The Honorable Thomas Moore
Commissioner
U. S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD

Dear Commissioner Moore:

When we spoke the other day I indicated that I would like to discuss the upcoming vote on bunk beds and you generously encouraged my input. With the vote scheduled for tomorrow I called your office today and learned that you will be in a meeting most of the day. To circumvent these scheduling obstacles, I wanted to send you a brief note strongly urging you to vote tomorrow to issue an Advance Notice of Proposed Rulemaking (ANPR) on the hazards associated with bunk beds.

CFA believes the following facts overwhelmingly support the initiation of rulemaking.

- 1) **This is not a new, problem.** CFA petitioned the Commission more than 11 years ago requesting a mandatory standard for this product. The deaths have mounted, the injuries have mounted and the recalled bunk beds have mounted (or, in many cases, have remained in consumer use). Industry has had their many chances. It is time for the federal government to weigh in on the side of the public and take action to protect young children.
- 2) **Rulemaking is the remedy not section 15.** A section 15 action occurs after the fact. It occurs after the bed has been manufactured, sold, and used by consumers. There is extremely limited prevention of the hazard with a recall. As your staff reports, there is an extremely low recall effectiveness rate with these recalls. The section 15 remedy, in effect, says "we'll act after a child has died." That's not fair to consumers. In addition, section 15 works best when names of manufacturers can be easily identified and that clearly has not proven to be the case here.
- 3) **Current conformance is inadequate.** The 90% conformance rate that has been widely discussed seems an over exaggeration to CFA. The staff argues in the Briefing Package

(Tab D, p.3, top) that: "Many of the bunk beds produced in the early to mid '80s, which may have had substantially less conformance than currently produced beds are probably no longer in use. Therefore, although we cannot precisely estimate what proportion of bunk beds in current use conforms to the standard, the figure probably falls between 50 and 90 percent." This, in part, contradicts the earlier statement in the briefing package (Tab D, p.2) that bunk beds have a useful life of 13-17 years and hence mid '80s bunk beds are still in use. Nevertheless, any percentage below 90% would, of course, increase the potential risk to consumers. Even if one subscribes to the 90% conformance rate, the 50,000 non-conforming beds this results in represents 50,000 exposures each year that could result in children's deaths.

4) "Non-conforming beds undercut the cost of conforming beds." (Staff Briefing Package, Tab F, p.2) This fact concerns us with respect to the likelihood that low income consumers may be placed at greater risk because of the increased likelihood that they will purchase lower costing goods. These consumers may also be in the same population that fail to receive and act on safety information, such as the warning not to place children younger than age six on the top bunk.

For these reasons and others we strongly urge that you vote to initiate rulemaking on bunk beds. We greatly appreciate your interest in CFA's position. Again, I regret that our schedules did not permit us to speak in person.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Ellen R. Fise". The signature is fluid and cursive, with the first name "Mary" and last name "Fise" being the most prominent parts.

Mary Ellen R. Fise
General Counsel

198-1-1a
6/26/98
4/8/98
[Signature]

COMMENTS OF
CONSUMER FEDERATION OF AMERICA

on the

CONSUMER PRODUCT SAFETY COMMISSION'S
ADVANCE NOTICE OF PROPOSED RULEMAKING
[63 Fed. Reg. 3280]

on

BUNK BEDS

submitted by:

Mary Ellen R. Fise
General Counsel

April 7, 1998

Consumer Federation of America (CFA) is pleased to submit these comments in strong support of the Consumer Product Safety Commission's Advance Notice of Proposed Rulemaking (ANPR) on bunk beds [63 Fed. Reg. 3280]. CFA is a non-profit association of some 240 pro-consumer groups, with a combined membership of 50 million, that was founded in 1968 to advance the consumer interest through advocacy and education.

CFA has had a long standing interest in the issue of bunk bed safety. In August 1986, CFA petitioned CPSC to establish a mandatory standard for bunk beds. The CFA petition specifically addressed the issue at the heart of this rulemaking -- that of entrapment of young children in the bunk bed structure. When the Commission denied the petition in 1988, over 200,000 injuries and at least 72 deaths had occurred.

According to recently released CPSC data, from January 1990 through September 1997, there were 85 bunk bed-related deaths to children under the age of 15; with 54 of these deaths due to entrapment. There were an estimated 35,000 bunk bed-related injuries to children under age 15 treated in U.S. hospital emergency rooms in 1996. In addition, CPSC received reports of an additional 49 "near miss" entrapment incidents where a child was entrapped yet received no or minor injury because of some intervention. CPSC staff concluded in its report to the Commission that "Bunk bed deaths have not decreased in recent years." (CPSC Staff Briefing Package, November 26, 1997, 2; hereinafter cited as Staff Briefing Package).

CFA believes that the age of bunk bed users as well as the time and manner in which they are used are additional factors that support a finding of an unreasonable risk of injury presented by the product. Young children are routinely put to sleep in these beds and the bed is expected to be used without adult supervision by a sleeping child who has little control of body movements. Bunk beds that entrap youngsters or allow them to fall from top bunks present an unreasonable risk of injury to those young users.

It is clear that the lack of compliance with voluntary bunk bed safety standard jeopardizes children. While a voluntary standard addressing bunk bed hazards has been in effect since October 1992, compliance by industry has been inadequate. In the last three years alone, CPSC has instituted 8 recalls involving 41 manufacturers and affecting approximately 53 1,000 bunk beds. Because bunk beds have a useful life of 13-17 years and recall effectiveness has been low, there is still considerable concern that unsafe bunk beds are currently in use.

CFA believes that the industry record of compliance with the voluntary standard since its inception clearly evidences a lack of “substantial compliance.” We reject the notion that there is a certain percentage of the market that is the measure of substantial compliance under CPSC law. We believe that the key here is not the percentage of firms at any one juncture that comply but rather the record taken as a whole. The fact that 41 manufacturers in a three year period were not in compliance means that hundreds of thousands of children were at risk

-3-

of entrapment, regardless of the percentage of bunk beds not in compliance. Had those beds been in compliance, as they more likely would have been had there been a mandatory rule, consumers would have been at less risk. CFA believes there are no legal impediments to the Commission making the necessary findings under section 9 (b)(3) in order to proceed with

this rulemaking.

To further protect children, CFA strongly urges the Commission to include the hazard of falls from bunk beds within the scope of the proposed rule. Every year at least one child dies due to a fall from a bunk bed. Almost all of the 35,000 injuries that occur each year are due to falls (Staff Briefing Package, Tab B, p.3). Preventing falls is a relatively easy hazard to address in the mandatory standard. We believe such prevention will in result in benefits that far outweigh the costs. The agency would be remiss in not using this opportunity to address this risk which, heretofore, has been ignored by the industry and has resulted in a voluntary standard that does not adequately address this particular risk of injury associated with bunk beds.

CFA also urges the Commission to take into consideration the particular vulnerability of low income consumers to the risks posed by bunk beds. The CPSC Staff has concluded that "Non-conforming beds undercut the cost of conforming beds." (See Staff Briefing Package, Tab F, p. 2) This fact concerns us because low income consumers may be placed at greater risk because of the increased likelihood that they will purchase lower costing

-4-

goods. These consumers may also be in the same population that fail to receive and act on safety information, such as the warning not to place children younger than age six on the top bunk. This population sector may already be more at risk from the existing second hand or "used" markets since the resale of a bunk bed typically occurs at a cost lower than that of purchasing one new.

CFA recommends that the Commission reject the alternative of recalling bunk beds as violations of the voluntary standard are uncovered. Without a rule and its attendant.

enforcement mechanisms, the Commission would be left only with recalling bunk beds each and every time bunk beds violative of the voluntary standard are identified. This is a costly remedy for both the children who are killed or injured by these beds and for the CPSC that must expend resources over and over again to uncover recalcitrant manufacturers and negotiate and monitor corrective action plans. Section 15 actions occur after the fact (after the risk of death has been presented to numerous consumers) and are likely to have extremely low recall effectiveness rates since Section 15 works best when names of manufacturers can be easily identified -- a fact that clearly has not proven to be the case with bunks beds not in compliance with voluntary standards.

In conclusion, CFA urges the Commission to proceed with this rulemaking and propose a rule that will further enhance the safety of children using bunk beds, allowing the agency to use all of its powers to assure effective enforcement of this important safety standard.

April 7, 1998

Ms. **Sadye** DUM
Secretary
Consumer Product Safety Commission
4330 East West Highway
Room 502
Bethesda, MD 20814

Dear Ms. DUM:

Enclosed for filing please find comments of the Consumer Federation of America (CFA) on the Advance Notice of Proposed Rulemaking (ANPR) [63 Fed. Reg. 3280] on Bunk Beds. In addition to electronic filing, these comments are being filed in hard copy.

Thank you for your attention in docketing these comments.

Sincerely,

Mary Ellen R. Fise
General Counsel

CH 98-1-2

DR. RONALD P. MAZZA

56A Motor Avenue
Farmingdale, NY 11735

(516) 752-1910 • Fax (516) 752-1914

OFFICE OF THE SECRETARY
OF INFORMATION
1998 MAR 24 A 9:28



March 18, 1998

Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-30001

Re: Comment regarding ANPR on bunk beds

Commissioner,

I am writing in regard to the advanced notice of rule making pertaining to bunk beds. I truly feel that going forward with mandatory standard in the design and construction of bunk beds is the only correct action to take.

If even one child's death is caused by nonconformance to the voluntary standard, that should be sufficient to tell us as an educated society that the voluntary nature of the standard is not good enough. There were in fact 54 deaths and over 100,000 injuries from 1990 to 1995. This is obviously overwhelming evidence that mandatory standards must be passed to save this nation's precious children.

Sincerely,

RONALD P. MAZZA, DC

A handwritten signature in black ink, appearing to be "R. Mazza", written over the typed name.



OFFICE OF THE SECRETARY
FREEDOM OF INFORMATION

CH 98-1-3
General Offices
12560 West Creek Parkway
Richmond, Virginia 23238
(804) 784-7300

19.0 MAR 30 P 2:29

March 26, 1998

Office of the Secretary
Sadye Dunn, Director
Consumer Product Safety Commission
Washington, DC 20207-000 1

Re: ANPR for Bunk Beds

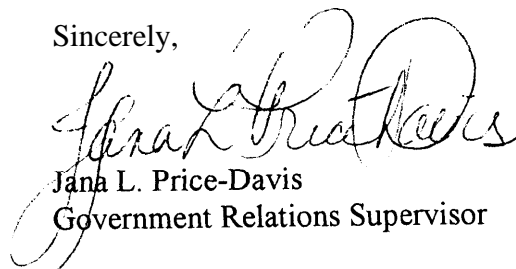
Dear Ms. Dunn:

Enclosed please find for filing an original and five (5) copies of Heilig-Meyers Company's response to the Advance Notice of Proposed Rulemaking concerning bunk beds published in the Federal Register, Vol. 63, No. 14, Thursday, January 22, 1998.

Please date stamp the extra copy of this transmittal letter and kindly return it in the enclosed self-addressed, stamped envelope for our filing purposes.

Thank you for your attention to this matter.

Sincerely,



Jana L. Price-Davis
Government Relations Supervisor

Enclosures

ANPR FOR BUNK BEDS**Comments filed on Behalf of Heilig-Meyers Company***March 26, 1998*

Heilig-Meyers opposes the imposition of mandatory bunk bed performance requirements, particularly on retailers.

Risk from entrapment is minor. Heilig-Meyers has received no claims associated with bunk bed entrapment. The few claims received dealing with injuries associated with bunk beds were related directly to customer installation and customer-provided bedding. Additionally, the Consumer Product Safety Commission's (CPSC) own figures reflect fewer than 15 entrapment cases per year over a 7 year period even while estimating that there are some 7 to 9 million bunk beds available for use at any given time. While injuries to customers, particularly to children, are of great concern to retailers, from a statistical standpoint, the number of injuries associated with bunk bed entrapment are minimal.

A mandatory bunk bed performance standard will not alleviate the risk of injury. Imposing a mandatory standard would not increase awareness among manufacturers currently unaware of the voluntary standard. CPSC states that "small regional manufacturers that periodically enter the marketplace may not be aware of the voluntary standard". If, as CPSC indicates, this unawareness of the voluntary standard results from a lack of participation in industry associations etc., what evidence is there that awareness would increase by imposition of a mandatory standard? If non-complying companies are to be "educated" on a mandatory standard by a government agency, why is that agency unable to currently educate concerning the voluntary standard?

Imposing a mandatory standard on retailers will not create greater compliance among manufacturers. Responsible companies such as Heilig-Meyers are already purchasing only those beds purporting to comply with the voluntary ASTM bunk bed standard. When purchasing a bunk bed for sale, however, the retail industry is always at the mercy of the manufacturer. The manufacturer, not the retailer, should be in the position to know the exact requirements of the standard and whether or not an item complies with said standard. The retailer must rely on the representation of compliance made by the manufacturer. Imposition of a mandatory standard on the retailer eliminates the ability to rely on this representation and has a chilling effect on commerce. For protection, a **retailer** would be required to engage in his own testing and inspection of the beds, thereby dramatically increasing the price to the customer.

To place a mandatory safety standard on bunk bed manufacturers and sellers ignores a major contributing factor to bunk bed accidents – consumer installation and consumer bedding choice. The bed itself may be in perfect compliance with the standard and yet, due to faulty installation by the consumer and/or a choice made by the consumer with regard to the bedding used in the bunk bed, tragedy may occur. Of those accidents involving bunk beds which have been reported to Heilig-Meyers nearly all involved falls resulting from either customer installation (failure to

properly install guard rails) or customer bedding choice (where a customer has elected to use a regular twin bed mattress rather than purchase a bunkie set). Neither the retailer nor the manufacturer can force a customer to assemble or install a bunk bed in a certain fashion. Nor can a, retailer or manufacturer restrict the type of bedding used by the customer on the bunk bed.

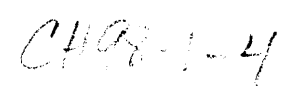
Customer awareness is the best defense against entrapment or any other bunk bed injury. Customers should be told to ask if the bed complies with the voluntary standard and customers should be aware that, as in any situation, they are the best judges of whether or not a bunk bed is suitable to their needs. Customers also need to be aware that in order to avoid injury, bunk beds must be properly installed and bedding designed for bunk beds should be used.

A mandatory bunk bed performance standard would not eliminate the risk of injury associated with bunk beds. Creation of a mandatory standard would not significantly increase compliance with the existing voluntary standard. Imposition of a mandatory standard on retailers would be costly to the consumer. A mandatory performance standard ignores the most significant causes of bunk bed related injuries: improper bunk bed installation and inappropriate bedding. Heilig-Meyers opposes a rule mandating that bunk bed performance requirements be imposed on manufacturers and retailers of bunk beds.

Respectfully submitted,

HEILIGMEYERS COMPANY

By: 
Jana L. Price-Davis
Government Relations Supervisor



K E E P I N G B A B I E S S A F E

3158 DANVILLE BLVD. • P.O. BOX 680 • ALAMO, CALIFORNIA 94507 1-800-83 DANNY OR (510) 833.2669 • FAX (510) 831.9102
E-MAIL: DANNYCRIB@EARTHLINK.NET INTERNET: WWW.DANNYFOUNDATION.ORG

Neither the general public nor the parents and caretakers of young children are aware of the risk of injury or death from allowing preschool children to have access to bunk beds. We note that CPSC had done very little to provide information on the risk of injury and death from bunk beds. The sellers and producers of bunk beds, as well as the American Furniture Manufacturing Association (AFMA) have done nothing to educate the public to this risk.

The development of a mandatory standard will provide a public forum for debate on bunk bed hazards and will logically lead to awareness of a serious hazard for bunk beds.

3. The voluntary standard is seriously flawed:

The voluntary standard excludes 15 inches from protection of the guardrails on the top bunk and basically excludes the bottom bunk area from the standard's requirements.

A mandatory standard will provide a means to correct these flaws.

4. Large numbers of Producers/Sellers of bunk beds:

More than 100 producers of bunk beds have been identified. There are undoubtedly others that have not specifically come to the attention of CPSC because bunk beds are a very easy product to produce with a minimum of start up costs. Producing a functional bunk bed can truly be a "garage operation".

The Danny Foundation has considerable experience in the development of voluntary standards for cribs and some other juvenile products. The crib and juvenile products industry is quite limited in number of firms, approximately 40, and even with this small number the voluntary standards process is tedious and often divisive. To expect 100 different firms to develop a "consensus" is not realistic.

A mandatory standard is necessary because of the very large number of firms involved and the ease of exit and entry into this product line for new or existing businesses.

5. Adult versus Child Beds:

It is not clear from the incident data provided how many deaths to young children occur involving adult beds, or how many deaths to young children occur involving beds that are not configured as "bunk beds", but would be used by preschool age children. Small single beds and trundle beds could have the same hazards as bunk beds and preschool age children can easily become entrapped and strangle or suffocate in these beds as well as "bunk beds".

Any bed intended for preschool age children should be covered by a mandatory standard and adult bunk beds should as well, since it is predictable that young children will be placed in adult bunk beds when the need occurs.

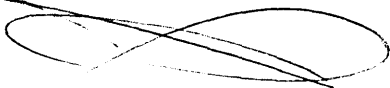
6. Consumer Product Safety Act versus Hazardous Substances Act:

It is The Danny Foundation opinion that a single standard should be developed covering adult and child bunk beds, and other beds intended for use by preschool age children. The Consumer Product Safety Act would be appropriate.

7. A "level playing field" is needed:

At least 40 bunk bed manufacturers are members of AFMA and try very hard to comply with the standard. A mandatory standard will "level the playing field", so to speak, and force all manufacturers to comply with the standard.

Sincerely yours,



John Lineweaver, President
The Danny Foundation

JLL/kf

CH98-1-4a



The Danny Foundation

KEEPING BABIES SAFE

OFFICE OF THE SECRETARY
FREEDOM OF INFORMATION

1998 APR 14 A 11:21

April 7, 1998

Office of the Secretary
Consumer Product Safety Commission
Washington, D.C. 20207-0001

RE: ANPR (Bunk Beds) Letter of March 30, 1998

Dear Secretary:

Attached is a revised copy of ANPR Letter of March 30, 1998. Paragraph Number One on Page Two was omitted by mistake from the original letter. Please accept this revised version as submitted.

Thank you.

Sincerely yours,

Jack Walsh
Executive Director

JW/kf

Enclosure



3158 DANVILLE BLVD. . P.O. BOX 680 . ALAMO, CALIFORNIA 94507 1-800-833 DANNY DR (510) 833.2669 . FAX (510) 831.9102
E-MAIL: DANNYCRIB@EARTHLINK.NET INTERNET: WWW.DANNYFOUNDATION.ORG

Office of the Secretary
March 30, 1998
Page Two

3. The voluntary standard is seriously flawed:

Three children have died in bunk beds that conformed to the voluntary standard. A 5 year old died in 1994 and an 18 month old died in 1996 when they became entrapped in the unprotected area of the top bunk. A 22 month old child died when the child became entrapped in the bunk bed frame supporting the top bunk. This is an area excluded from spacing requirements of the voluntary standard.

The voluntary- standard excludes 15 inches from protection of the guardrails at each end of the guardrail on the top bunk. This permits 60 inches (5 feet) of space on the top bunk for a child to fall and potentially become entrapped. The bottom bunk is basically excluded from the requirements of the voluntary standards, except for the head board and foot board.

To our knowledge, no meetings have been scheduled for the ASTM subcommittee to 'even begin the process of addressing these obvious hazards 'by the voluntary standards process.

A mandatory standard will provide a means to correct these flaws.

4. Large numbers of Producers/Sellers of bunk beds:

More than 100 producers of bunk beds have been identified. There are undoubtedly others that have not specifically come to the attention of CPSC because bunk beds are a very easy product to produce with a minimum of start up costs. Producing a functional bunk bed can truly be a "garage operation". In recent years, there has been a proliferation of importers bringing in metal bunk beds.

The Danny Foundation has considerable experience in the development of voluntary standards for cribs and some other juvenile products. The crib and juvenile products industry is quite limited in number of firms, approximately 40, and even with this small number the voluntary standards process is tedious and often divisive. To expect more than 100 different firms to develop a "consensus" is not realistic.

A mandatory standard is necessary because of the very large number of firms involved and the ease of entry into this product line for new or existing businesses.

5. Adult versus Child Beds:

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March 30, 1998
Page Three

It is not clear from the incident data provided how many deaths to young children occur involving adult beds, or how many deaths to young children occur involving beds that are not configured as "bunk beds", but would be used by preschool age children. Small single beds and trundle beds could have the same hazards as bunk beds and preschool age children can easily become entrapped and strangle or suffocate in these beds as well as "bunk beds".

Any bed intended for preschool age children should be covered by a mandatory standard and adult bunk beds should as well, since it is predictable that young children will be placed in adult bunk beds when the need occurs.

6. Consumer Product Safety Act versus Hazardous Substances Act:

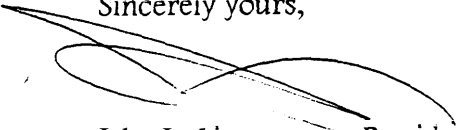
It is The Danny Foundation recommendation that a single standard should be developed covering adult and child bunk beds, and other beds intended for use by preschool age children. The Consumer Product Safety Act would be the appropriate statute.

7. A "level playing field" is needed-

At least 40 bunk bed manufacturers are members of AMFA and try very hard to comply with the standard. We understand that some of the members have unilaterally addressed the flaws in the voluntary standard by producing bunk beds that have guardrails that protect the entire perimeter of the upper bunk and have reduced spacing accessible to young children from the lower bunk to prevent entrapment*

A mandatory standard will "level the playing field", so to speak, and require all manufacturers/importers and sellers to comply with the standard.

Sincerely yours,



John L. Lineweaver, President
The Danny Foundation

JLL/kf



A Free-Market Consumer Group

410-115

VIA FAX and MAIL

April 6, 1998

Ms. **Sadye** E. Dunn
Office of the Secretary
U. S. Consumer Product Safety Commission
Washington, DC 20207-000 1

Dear Ms. Dunn:

This letter is intended to transmit the comments of Consumer Alert, Inc. on the Advance Notice of Proposed Rulemaking on Bunk Beds, as published in the Federal Register on January 22, 1998.

Consumer Alert, Inc., is a non-partisan, non-profit, free market oriented consumer group. Our interest in this issue is as representatives of our constituency, which includes our members and all of those individuals who have grave concerns about the continuing expansion of government regulation.

We are persuaded that the proposed action by the Commission in the case of bunk beds would violate the intent of Congress, which in 1981 once again directed the agency to defer to voluntary standards when such standards are adequate and it is likely that there will be "substantial compliance."

We therefore offer our comments both in the spirit of achieving greater safety for children using bunk beds, and in the spirit of urging the Commission to abide by the intent of Congress.

Sincerely,

Frances B. Smith
Executive Director

enclosure: Comments



1001 Connecticut Ave., N. W. ▼
Suite 1128 ▼ Washington, D. C. 20036
Phone: 202-467-5809 ▼ Fax: 202-467-5
E-mail: info@consumeralert.org

CH 9-1-98

**Comments on the Advance Notice of Proposed Rulemaking
on Children's Bunk Beds
issued by the U.S. Consumer Product Safety Commission
on January 22, 1998
BY
Consumer Alert, Inc.**

April 6, 1998

Consumer Alert, Inc., is a non-partisan, non-profit, market oriented consumer group which represents thousands of concerned consumers throughout the United States.

We monitor government regulatory activity with an eye both for safety and benefits to the majority of consumers, but also with a keen interest in preserving a reasonable amount of freedom from undue government intervention in the marketplace.

After a thorough examination of the issues presented by the Advance Notice of Proposed Rulemaking (ANPR) on bunk beds, we must strongly oppose the continuation of this regulatory action. We do so for several reasons:

1. A mandatory rule covering bunk beds is unnecessary and duplicative of a voluntary standard which is already in existence, namely ASTM F- 1427-96.
2. In 1981, Congress gave clear direction to **the** agency to **defer** to such voluntary standards rather than issue a mandatory rule "whenever compliance with such voluntary standards would eliminate or adequately reduce the risk of injury addressed and it is likely that there will be substantial compliance with such voluntary standard."
3. The data on which the Commission has relied in publishing this ANPR clearly shows that the voluntary standard which is in existence is adequate, and that there is a substantial rate of compliance by industry. All 106 known manufacturers are said by the Commission's own investigation to comply currently with the ASTM standard.
4. Consumer education to address the real problem should be the focus of CPSC action. According to data reported to the CPSC about entrapment fatalities, the vast majority were due to the inappropriate placing off children under the age of six on the upper bunk, In fact, many of the fatalities occurred to one and two year olds.²
5. A voluntary standard allows for rapid innovation that can improve safety. Revisions to such standards can also be done rapidly, as contrasted with a government-imposed standard.
6. The General Counsel's interpretation of the Consumer Product Safety Act, as amended in 1981 (given to the Commission verbally in the public Commission meeting of January 8, 1998), provides the Commission with an erroneous reading of Section 7 and Section 9 of the Act. If allowed to stand, this interpretation could do serious harm to the achievements already made by the private sector in developing safety standards to protect consumers from unreasonable risk.

¹*Consumer Product Safety Act Amendments of 1981*, Report of the Senate Committee on Commerce, Science and Transportation, No. 97-102.

²Tinsworth, Deborah K., in a memorandum to John Preston of the CPSC staff on Bunk Bed Deaths and Injuries, dated Nov. 18, 1997.

Consumer Alert Urges the Commission to Terminate ANPR

Consumer Alert recommends that the Commission should vote immediately to **terminate** this unwise rulemaking proceeding. To continue would be unproductive and unnecessary, **wasteful** of taxpayer dollars and, most importantly, may divert consumers from action they could take to prevent many bunk bed accidents.

The Voluntary Standard Works

In its Report on S. 1155, the bill to reauthorize the Consumer Product Safety Commission in 1981, the Senate Commerce Committee stated:

“...Many believe that the Commission has overused mandatory product safety standards and bans as compared with less intrusive alternatives such as voluntary industry standards and requirements for warning labels or instructional materials for consumer information. The Committee believes that the Commission should resort to mandatory standard setting only when these less intrusive regulatory alternatives would not prevent or adequately reduce unreasonable risk of **injury**.”³

At issue is the standard now in place covering bunk beds. Developed with the input of CPSC staff, and with the cooperation of industry, it was begun as industry guidelines in 1979, has been in place as an ASTM (formerly the American Society for Testing Materials) standard since 1988 and revised several times, most recently in 1996. CPSC staff emphasize they have no quarrel with the substance of the standard itself.

The compliance rate for the voluntary standard of 90 percent is quite high. That percentage is calculated on the number of products in compliance, not the number of manufacturers. While the quoted rate of compliance is actually based only on staff projections, not on hard numbers, normally that level of compliance with any standard would be considered high. With nearly half a million bunk beds manufactured and sold annually, it would appear that compliance with the bunk bed voluntary standard is extremely high. Since all of the known manufacturers are now in compliance, Consumer Alert believes that continuing with mandatory rulemaking *simply to assure greater compliance with an already existing standard* makes no sense at all.

The Commission has regularly recalled “noncomplying” bunk beds. These recalls are “voluntary,” i.e., they do not spring from any civil action by the agency but from the staffs notification that the maker is “out of compliance.” In recalling the bunk beds, CPSC infers that the products contain a defect under the statutory meaning of a “substantial product hazard.”

Thus the government already treats this voluntary standard as though it were mandatory.

At a time when CPSC ought to be re-examining its reliance on injury data in light of the recent critical GAO Report, the staff instead is ignoring its own data on bunk beds to support its rulemaking.

Consumer Alert believes that ASTM F-1427-96 contains requirements for the manufacture of safe bunk beds. Since the current version of that standard was published as recently as 1996, the Commission should allow more time to evaluate its effectiveness.

CPSC Should Address the Real Problem - Consumer Education

The CPSC should stress consumer education to address many of the safety issues relating to bunk beds. According to data in the CPSC briefing package, of the 54 fatalities involving entrapment in bunk beds from 1990 to 1997, all but one occurred to children under four. Out of the 54 fatalities, 45 of the children were aged one and two years; seven were three years, and one was four years. All had been placed

³*Consumer Product Safety Act Amendments of 1981* Report of the Senate Committee on Commerce, Science and Transportation, No. 97402.

on the top bunk of the bed -- contrary both to common sense and to the advice and warnings that accompany the beds. For 37 of the 54 incidents, the staff could not identify the age of the **bed**. But of the remaining incidents, very few beds were purchased after the 1992 date of the initial publication of the ASTM standard. Six of the beds were home-made. Some had been retrofitted by consumers, and at least one was a bed previously used in a college dormitory.

From these data, a strong inference would be that the real risk to children arises not from bunk beds but **from** parental misperceptions about their uses for small children and/or lack of supervision.

A mandatory standard may exacerbate the problem, as parents may think that with a government mandate on bunk bed safety, their small children can be put in the top bunks with little or no risk of injury.

Educational efforts with the message that parents must not place infants and toddlers under the age of six in the upper bunk would seem to be critical. That is where the real problem seems to exist, and that is where effort should be extended. In addressing the perceived risk of the bunk beds themselves, the CPSC is diverting attention from the real problem, with possible tragic consequences resulting.

A Voluntary Standard Allows for Rapid Innovation

The known fatalities, it has been argued, make it more urgent that a government rule be imposed. However, this ignores the fact that any revisions to the voluntary standard could be done very quickly, while the **CPSC's** three-stage rulemaking usually extends for at least a year or two and possibly longer. Voluntary standards allow for rapid innovation that can improve safety. By contrast, a **government-imposed** static design standard will stifle innovation and prevent even safer designs from being established in the **future**. It would also create disincentives for manufacturers to innovate because those "changes" would take them "out of compliance" with the government standard.

Agency bureaucrats say they desire a mandatory rule so that enforcement can be both strong and swift. Imported products can be seized. Violative manufacturers can be targeted for expensive civil penalties (with costs passed on to consumers).

But with a 90 percent (or more) compliance rate, and all of the known manufacturers making safe bunk beds, built to a standard they wrote themselves, the industry is already in compliance. As new manufacturers entering the market become aware of the standard, they, too, revise their designs.

Flawed Advice Is Counter to Congressional Intent

Finally, Commissioners would do well to re-examine the comments by their General Counsel with regard to evaluating compliance with a voluntary standard. We refer to the following specific comment:

"...**you** could compare the compliance that you have with the voluntary standard to the compliance you would reasonably expect to have with a rule. When the level of compliance is the same, you couldn't move forward. When the rule would have a higher degree of compliance you could make the finding that there's not substantial compliance with the voluntary standard. To put it in a little more convoluted way, you could say that substantial compliance is the compliance you could reasonably expect from a rule..?"

If the Commission wished to apply this reasoning to every voluntary standard to which it had ever deferred, it could **always** make the judgement, however imprecise and unsubstantiated, that a voluntary standard did not have the same compliance as would a rule. The General Counsel's advice is totally contradictory to the intent of the Congress in its effort to reform the CPSC in 1981.

Consumer Alert strongly urges the Commission to disregard this flawed advice and return to a more reasonable and logical reading of the language of the statute.

Thank you very much for giving Consumer Alert the opportunity to make these comments.

⁴**Statement** by Jeffrey Bromme, General Counsel of CPSC, at the January 8, 1998 briefing on entrapment hazards of bunk beds.

6/6/98 P.02



Detroit Testing Laboratory, Inc.

CH98-100

7111 E Eleven Mile, Warren, Michigan 48092 • P.O. Box 868, Warren, Michigan 48090-0868
(810) 754-9000 • FAX (810) 754-9045

April 1, 1998

Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-0001

Fax: 301-504-0127
Five (5) copies by mail

Subject: ANPR for Bunk Beds

Detroit Testing Laboratory, Inc. (DTL) is pleased to respond to the Advance Notice for Proposed Rulemaking that appeared in the Federal Register dated January 22, 1998.

DTL suggests to CPSC that

- a.) since most incidents of fatal entrapment occurred in bunk beds apparently not in compliance with voluntary standards,
- b.) CPSC should establish mechanisms that encourage or force compliance to the voluntary standards,
- c.) by either establishing third party certification under its jurisdiction, as is done by FAA for airport lighting and by HUD for numerous consumer products such as carpets,
- d.) or to recognize the existing certification program and to encourage same, as CPSC presently does for the JPMA seven certification programs.

DTL has sponsored the Bunk Bed Certification program since 1994, based upon the ASTM F1427, using the certification procedures of ANSI Z34.1. Because of the need for compliance with ASTM F1427 as elaborated in this ANPR and that the trade associations AFMA and JPMA have chosen not to sponsor a certification program for different reasons, DTL at its own expense initiated, and has continued to operate, the Bunk Bed Certification Program. Two of the largest bunk bed manufacturers are in the program and several of the small manufacturers have been participants.

DTL is an independent testing laboratory in continuous operation since 1903. In addition to diversified testing for the automotive industry, DTL has been expanding in testing consumer oriented products such as sports equipment, juvenile products and playground equipment. DTL is accredited by the American Association for Laboratory Accreditation (A2LA) and our technical staff participate in standards-writing bodies such as ASTM and SAE.

Detroit Testing Laboratory, Inc.

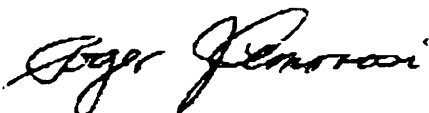
Page 2
CPSC
April 1, 1998

DTL is willing to participate in **the** development of **the** above ideas and to **share** the **documents** of the existing certification program, **such** as procedural, guide, license agreement, **test/ audit / corrective action** forms and the directory of certified products,

We **believe** that third party **certification in lieu of mandatory standards** would be ^{more} productive, **less expensive to the CPSC and the manufacturers.** and **can** be **operative much sooner.**

We are willing to ^{discuss details at} **CPSC** at your **convenience.** Please contact **Roger J. Amorosi, Virginia office,** at **540-972-4324** or fax **540-972-4126.**

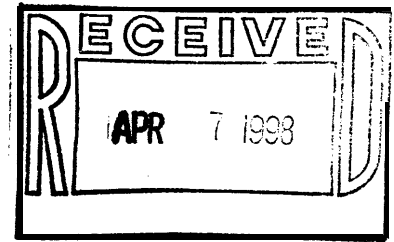
Sincerely yours,



Roger J. Amorosi
Senior Vice Resident

RJA/ld

cc: **Alfredo Apolloni, DTL President**
Robert Bosler, DTL Executive Vice President
Michael Krygier, DTL



April 7, 1998

The Honorable Ann Brown
Chairman
U.S. Consumer Product Safety Commission
Washington, DC 20207

Dear Chairman Brown:

I am writing to once again offer the perspective of AFMA and its member companies on the issue of bunk bed safety. AFMA and its member companies share the agency's concern about any injuries and/or deaths associated with these products. As you are aware, our organization has been, in cooperation with the CPSC, instrumental in the establishment and refinement of the current ASTM Standard on Bunk Beds. Since the publication of the original safety guidelines in 1978, the industry has responded to new incident information by expeditiously revising the standard on seven separate occasions.

The current standard (ASTM F1427-96) now sets specifications for siderails, guardrails, upper and lower bed end structures and structural integrity. Additionally, the standard presently requires prominent labeling specifically identifying bunk bed manufacturers or retailers, recommended mattress sizes, and parental safety instructions. We were especially gratified by the May 1996 *Chairman's Commendation for Product Safety*, which recognized the continuing progress achieved by industry on this important safety matter.

Because the CPSC staffs pending recommendation represents a departure from a track record of voluntary efforts to address bunk bed safety issues, we would like to take this opportunity to review the important role for voluntary safety standards and standards by which they are evaluated. Based on the CPSC staff's assertion (and the subsequent Commission majority vote for an ANPR) that a mandatory rule would assist in averting future deaths and injuries, AFMA will not oppose this approach. An ANPR may also provide the opportunity to collect more reliable information on issues such as compliance levels with the ASTM standard, and the age of beds involved in entrapment incidents.

Voluntary Standards

As you are aware, Section 9 of the Consumer Product Safety Act (CPSA) establishes a preference for consensus, voluntary standard setting which achieves "adequate reduction" of the risk of injury identified by the agency, and "substantial compliance" by industry. This provision reflects an understanding by Congress and the President that the expertise and dynamism of the private sector must be brought to bear on product safety issues. Indeed, Congress recognized that voluntary standards can evolve in response to new information

and technical challenges. One of the best examples of this phenomenon is the shared success of the CPSC, AFMA and ASTM on the voluntary bunk bed standard. Over a twenty year period, it is unlikely that any agency would have successfully concluded seven separate revisions to any highly complex mandatory standard.

Effectiveness of the-ASTM Standard

The best measure of the effectiveness of the current ASTM standard is the testimony of the CPSC's Project Manager John Preston that conformance with its provisions would have prevented all but three of the bunk-bed-related deaths reported between 1990 and 1997. Preston said that the issue was not the efficacy of the standard, but the level of conformance by smaller bunk bed manufacturers and new entrants into the market.¹

The vast majority of bunk bed incidents reported through the years involve entrapment of children under six placed in the top bunk by parents or caregivers. Many of the design changes and labeling requirements established by ASTM, and a great deal of the educational outreach by the agency, has been directed toward this misuse of the product. Despite these efforts, some parents or caregivers continue to place young children in the upper bunk. In two of the three recent fatalities cited by staff, an 18-month old and a 4-year old were entrapped on the top bunk. Given the significant behavioral component of these two incidents, it is debatable whether a mandatory regulation is better equipped to address such risks than the current ASTM Standard.

"Substantial Compliance"

At the January briefing, CPSC staff noted that all 106 known producers of bunk beds are now in compliance, and estimated a ninety percent compliance level based on the staff's belief that numerous, unidentified smaller manufacturers annually produced approximately ten percent of bunk beds.

One very significant concern AFMA has is the interpretation of Section 9(b) of the Consumer Product Safety Act (CPSA) as expressed by CPSC's General Counsel at the January 8, 1998 Staff Briefing. Counsel's interpretation of this provision departs from the clear intent of Congress, and if followed, would yield a constricted role for voluntary standard setting.

As you are aware, Section 9(b) requires the Commission to forego rulemaking in cases where a voluntary standard achieves "adequate reduction" of the risk of injury identified by the agency, and "substantial compliance" by industry. This provision was added to the CPSA in the 1981 Amendments and reflects the preference of Congress for consensus, voluntary standard setting where such action can "eliminate or adequately reduce an

1 Staff Briefing on Bunk Bed Safety, January 18, 1998.

unreasonable risk of injury in a timely fashion.”² It was the opinion of the General Counsel that Congress provided little guidance through legislative history for what was intended by the phrase “substantial compliance.” In point of fact, legislative materials from the 1981 reauthorization process provide a clear picture of Congressional intent, particularly when viewed in light of the customary usage of “substantial compliance” and related terminology in the common law, as well as in other regulatory contexts.

The legislative history of the 1981 Amendments reflects solid Congressional support for the role of voluntary standard organizations as a primary mechanism to advance product safety. Also apparent is a perception among Members of Congress that earlier expressions of this policy had not been **adequately** implemented by the CPSC. Following several days of oversight hearings in April 1981, the Senate Commerce Committee concluded that “...the agency continues to require substantial reforms,...” and specifically noted:

*Many witnesses testified that the Commission has failed to encourage or support voluntary efforts by industry members to improve product safety, despite a clear directive to do so following the Commission’s 7978 reauthorization. In addition, many believe that the Commission has overused mandatory product safety standards and bans as compared with less intrusive alternatives such as voluntary industry standards.. . .*³

This support for voluntary standard setting extended beyond Capitol Hill, and was reflected in policy issued by the Executive Office of Management and Budget (OMB) during the same period, which encouraged federal agencies to cooperate with voluntary standard bodies in developing and utilizing consensus standards.⁴ When Section 9(b) is viewed in this context, it is difficult to attribute to Congress and the President a timid or restrictive understanding of this provision.

The CPSC General Counsel has also criticized efforts to equate “substantial compliance” with numerical thresholds, such as the number of complying products as a percentage of total products produced. The legislative history of Section 9(b) provides clear authority for such an approach, specifying that:

² *Report of the Senate Committee on Commerce to Accompany S. 7755*, S. Rpt. 97-102 (97th Congress), p. 14.

³ *Report of the Senate Committee on Commerce to Accompany S. 1 755*, S. Rpt. 97-1 02 (97th Congress), p. 2.

⁴ *Federal Participation in the Development and Use of Voluntary Standards*, OMB Circular A-1 19, revised (1982).

*In most situations, compliance should be measured in terms of the number of complying consumer products.. . .*⁵

It is true that Congress declined to limit “substantial compliance” to a single numerical threshold; however, this should be viewed as foresight rather than oversight. As Commissioner Gall noted during the January Briefing, an achievable compliance level in one industry might be impossible, either through voluntary or mandatory standard setting, in a differently structured industry.

- . Within this flexible framework for evaluating voluntary standard compliance, we can nevertheless identify the “ballpark” which Congress had in mind. One interpretive tool is the established usage of “substantial compliance” and related terminology in other legal contexts, which Congress very likely intended as a foundation for understanding Section 9(b).

A well-established doctrine of the common law accepts “substantial performance” of an agreement as sufficient to preserve the contract.⁶ “Substantial performance” accounts for basic human fallibility in complex endeavors, recognizing that “...it is highly unusual for a project to be completed in exact accordance with the original plans.”⁷ In one leading case, a court found substantial performance of a \$26,000 contract where performance was deficient by \$1,600.⁸ Some commentaries have adopted 90 percent as a rule of thumb in defining performance that is substantial.⁹

There is also a degree of consensus surrounding such terminology in the regulatory arena. An example of this is the Food and Drug Administration’s definition of “substantial

⁵ Conference Report to *Accompany H.R. 9982*, the Omnibus Reconciliation Act of 1981, p. 395.

Report of the Senate Committee on Commerce to Accompany S. 1755, S. Rpt. 97-1 02 (97th Congress), p. 2.

⁶ See *Restatement (Second) of Contracts*, Section 241.

⁷ *Lindsey Masonry Co. v. Jenkins & Assoc.*, 897 S.W. 2d 6, 16 (Mo. Ct. App. 1995).

⁸ *Plante v. Jacobs*, 10 Wis. 2d 567 (Supreme Court of Wisconsin 1960).

⁹ See *Restatement (Second) of Contracts*, Section 241.

compliance” with food labeling requirements as “...at least 90 percent.”¹⁰ As recently as February 20, 1998, President Clinton directed federal health plans to come into “substantial compliance” with the Consumer Bill of Rights, and the Department of Health and Human Services is in the process of implementing this directive.¹¹

To set aside such guideposts is to enter a realm of subjectivity and circular logic. Under the interpretation advanced by the General Counsel, evaluating whether a voluntary standard achieves “substantial compliance” requires a comparison of voluntary standard compliance with the compliance one would reasonably expect from a mandatory standard. Within this analysis, the “uniqueness” of a particular industry, e.g., the predominance of smaller manufacturers, was said to be an important consideration notwithstanding that this factor is never mentioned in the statute.

Further, a short-hand formula was said to be “...make a rule if it will make a difference.” Because the Commission relies upon staff to predict the impact of mandatory rules, staff recommendations would take on an element of self-fulfilling prophecy. In any case where staff viewed a mandatory standard as preferable, it would thereby become the preferred option. As an example of this potential, consider the view advanced by Compliance Director Alan Schoem at the January Briefing:

*It's much easier to enforce a mandatory standard, and because of that, its much more likely that you're going to have compliance with a mandatory standard than you would with a voluntary standard.*¹²

It was precisely this sort of institutional tendency toward mandatory regulation that Congress sought to address by enacting Section 9(b). As Commissioner Moore has pointed out: “There will always be enforcement advantages to a mandatory standard over a voluntary one. [But] the Commission has been proud of its commitment to depend, wherever possible upon voluntary standards, which have in many cases been shaped by the expert hands of the CPSC staff.”¹³

AFMA believes that the interpretation of Section 9(b) articulated by the General Counsel would not provide meaningful limits on mandatory standard setting. By unhinging the 9(b) analysis from measurable factors such as numbers of products in compliance and out of

¹⁰ 21 C.F.R. Section 101.43.

¹¹ *Executive Memorandum*, February 20, 1998.

¹² Staff Briefing of the Commissioners, January 8, 1998.

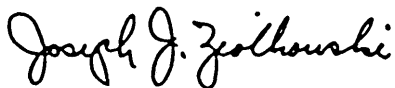
¹³ Staff Briefing of the Commissioners, January 8, 1998.

compliance, Counsel's interpretation risks turning 9(b) into empty verbiage, rather than the rigorous analysis that Congress intended which would identify and promote reliable voluntary standards. Such a result would run counter to statute, and to your own conviction **that "...the paradigm for the CPSC in the 1990's is the triangle where business, consumers and government each have an equal role to play."**¹⁴

Conclusion

AFMA appreciates the opportunity to provide comments on this matter. While we have highlighted some procedural and methodological points where improvement could be made, our primary concern remains the safety of children using our products. Therefore, based on the CPSC staffs assertion (and the subsequent Commission majority vote for an ANPR) that a mandatory rule would assist in averting future deaths and injuries, AFMA will not oppose this approach.

Sincerely,



Joseph J. Ziolkowski
Director Technical Services

cc: Commissioner Mary Sheila Gall
Commissioner Thomas Moore
Ronald Medford, Asst. Exec. Director
John D. Preston, Project Manager
ASTM Subcommittee Members

¹⁴ Testimony of the Honorable Ann Brown, Chairman, U.S. Consumer Product Safety Commission, before the Appropriations Subcommittee on VA, HUD, and Independent Agencies, February 27, 1995.



Publisher of Consumer Reports

TRANSMITTAL SHEET

Date: April 7, 1998
To: Consumer Product Safety Commission
From: Sally Greenberg
of pages 2 (Including transmittal sheet)

Message: Comments Filed - AN PR for Bunk Beds

301-504-0127
Destination Fax #

For transmission problems, please call (202) 462-6262

Author: "Sally Greenberg"<greesa@consumer.org> at INTERNET-MAIL
Date: 4/7/98 5:03 PM
Priority: Normal
TO: <CPSC-os@cpsc.gov> at internet-mail
BCC: Todd A. Stevenson at CPSC-HQ1
Subject: ANPR for Bunk Beds

Comments submitted by Consumers Union, Inc. are attached.

64 of 845 ✓

April 7, 1998

Office of the Secretary
Consumer Product Safety Commission.
Washington, D.C. 20207-0001

Re: ANPR for Bunk Beds

Comments by Consumers Union of U.S., Inc. to CPSC

Consumers Union supports the Consumer Product Safety Commission's decision to issue an Advanced Notice of Proposed Rulemaking on bunk beds. Taking into consideration that there is a continuing pattern of non-conformance to the ASTM voluntary standard on bunk beds, and that non-conforming bunk beds have been associated with a number of fatalities, Consumers Union supports the agency's efforts to develop a mandatory standard.

We note that three of the fatalities associated with bunk beds involved beds that conformed to the current voluntary standard. These incidents suggest that the Commission should improve the requirements of ASTM F-1427-96 to provide better protection from entrapment.

Respectfully submitted,

Sally J. Greenberg
Senior Product Safety Counsel

April 7, 1998

Office of the **Secretary**
Consumer Product Safety **Commission**
Washington, **D.C.** 20207-0001

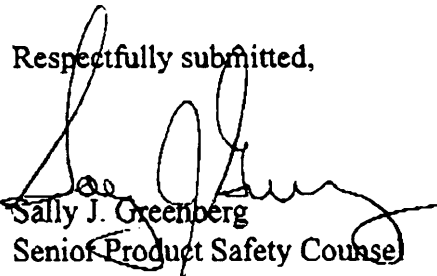
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Respectfully submitted,



Sally J. Greenberg
Senior Product Safety Counsel

CH98-1-9
66014
3/16/98
R

Subject: ANPR for BUNK BEDS

Date: Thu, 5 Mar 1998 21:34:37 EST

From: Concoard7 <Concoard7@aol.com>

To: cpsc-os@ntmail.cpsc.gov

ATTN: Office of the Secretary
Consumer Product Safety Commission
Washington, D.C. 20207

I have never written to the government before. I recently read a story regarding the loss of a precious child, due to the inadequate design of a bund bed.

Noone can put a price on the life of any human being, especially an innocent child.

I strongly support a mandatory rule regarding bunk beds. I have read one too many sad stories of the heartache a parent must go through after losing their child to such a terrible avoidable tragedy.

When you put your child (or another child in your care) down for a nap or sleep for the night, you think they are safe from all harm. You give them a hug and kiss and tuck them in. Never in your wildest dreams would you think they could be at harm safely tucked away in their bed.

The extra efforts and rules the government makes can only be rewarded when it involves the value of life.

As the song goes "DO THE RIGHT THING" ! ! ! !

It can't possibly hurt anyone to have mandatory rules when it involves the safety of our most special gifts from God.

Thank you for your time and consideration,

Donna M. Ruinsky, 205 W. Main Street, Sayville, NY 11782

~~12/18/87~~ CH98-1-10

Theresa Narbut
30 Sandy Lane
Massapequa, NY 11758

CPSC/OFC OF THE SECRETARY
FREEDOM OF INFORMATION

1988 MAR -8 A 10:41

Consumer Product Safety Commission
Washington, DC 20207

Gentlemen:

I read with interest your article regarding bunk beds. However, you neglected a very important feature consumer should be aware of when delivery and installations are being made of the bunk beds.

People should double check the size of the inner hardware that goes with the bunk beds, Namely, the dowls should be the proper size.

We had a horrible with Levitz, in 1984- or 1985 installing improper sized dowls and the beds collapsed when my daughter was laying down in the bottom bunk. Thank God she was playing with a suitcase and the bed angeled itself on that while I pulled her out. Of course, Levitz, did not want to hear the put in the wrong sized hardware. After the store manager instructed the installers to correct the problem, my husband as a safety precaution, secured mending plates where the beds are placed on top of each other. This insures the beds will not separate.

Now, my children have grown, but I will never forget that experience.

Very truly yours,

Theresa Narbut
Theresa Narbut

CH98-1-14

Author: **Sadye** E. Dunn at CPSC-HQ1
Date: 2/3/98 11:52 AM
Priority: Normal
TO: Russ J. Rader, Todd A. Stevenson
Subject: Re: Consumer call

Russ, we will write to acknowledge the call as a comment on the proposed bunk bed rule. Todd Stevenson will do.

Thanks.

Sadye

Reply Separator

Subject: Consumer call
Author: Russ J. Rader at CPSC-HQ1
Date: 02/03/1998 11:43

I took a call from a consumer wha wanted to thank the commission for the vote on the bunk bed standard. Do we have some sort of letter we could send acknowledging the phone call?

This is her info:

Terri Romano

163 West Oakridge Park

Metairie, LA 70007



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

February 5, 1998

Ms. Terri Romano
163 West Oakridge Park
Metairie, LA 70007

Dear Ms. Romano:

Thank you for your call to the Commission staff about the Commissions activities involving bunk bed safety standards. The Commission is presently receiving comments from the public about an advance notice of proposed rulemaking to develop a mandatory standard to address the hazard of children's entrapment in bunk beds. We will record your call as a comment and it will be made part of the official comments from the public regarding the consideration of a proposed rule. The Commissioners and their staffs will review your comments as decisions are made during the petition processing. Thank for your interest in consumer product safety.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd A. Stevenson", is written over a horizontal line.

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer

1988 APR -7 A 9:29

CH 98-1-12
65
ac 4/8/98
✓

Douglas H. Carpenter
3430 - 201st Place SE
Bothell, WA 98012

March 31, 1998

Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-3001

COMMENT REGARDING ANPR ON BUNK BEDS

Dear Commissioner:

I am writing in regard to the advanced notice of rule making pertaining to bunk beds. I truly feel that going forward with the mandatory standard in the design and construction of bunk beds is the only correct action to take.

If even one child's death is caused by nonconformance to the voluntary standard, that should be sufficient to tell us as an educated society that the voluntary nature of the standard is not good enough. There were in fact 54 deaths and over 100,00 injuries from 1990 to 1995. This is obviously overwhelming evidence that mandatory standards must be passed to save this nation's precious children.

Sincerely,



Douglas H. Carpenter

CH 98-1-13

CPSA 6 (b)(1) Cleared

2/23/98
No Mfrs/PrvtLbrs or

Products Identified

Exempt

Firms Notified

Comments Received

Sherrie Mayernik
18 Chapel Lane
Levittown, NY 11756

February 18, 1998

Honorable Mary Sheila Gall
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Dear Commissioner Gall:

I am writing in regard to the recent vote on whether or not to publish an **Advanced** Notice of Rule Making to begin the process of making a mandatory standard of how to build Bunk Beds. I understand that you voted against it. As a Commissioner of the Consumer Product Safety Commission, you must be aware of how many children have been hurt and died in Bunk Beds. My 2 ½ year old nephew, Nicholas Mayernik died in a El **Rancho** Bunk Bed on May 28, 1994. In May 1995 the Consumer Product Safety Commission recalled approximately 14,000 wooden Bunk Beds, and you believe a mandatory standard is not necessary? It has come to my attention that on April 24, 1997 a little girl in Oklahoma died in a Bunk Bed. How many more families will have to bury their children before the Consumer Product Safety Commission acts in a way that **fulfills** its mandate to protect American Citizens **from** unsafe products?

Very truly yours,



Sherrie Mayernik

cc: Honorable Ann Brown
Commissioner Thomas H. Moore

CH98-1-13a YRRW
CH98-1-238

DAVID LITZ
208 WEST FULTON AVE
ROOSEVELT NY 11525
2/15/98

Office of the Secretary
CPSC
Washington, DC 20207-30001

Re: ANPRF - Bunk beds

To Whom It May Concern:

I am writing in regard to the advanced notice of rule making pertaining to bunk beds. I truly feel there should be a mandatory standard in the design and construction of bunk beds.

If one child dies due to unsafe bunk bed design and manufacture this questions whether voluntary standards in the industry are sufficient to protect our children. Due to the fact that there were more than 45 fatalities and over 100,000 injuries from 1990 to 1995, I feel that is overwhelming evidence that mandatory standards must be passed to insure that this tragedy does not strike another American family.

Very Truly Yours,

David L. Litz

Donna J. Celli
70-0 Farm Rd.
Somerville, NJ 08876
February 15, 1998

Office of the Secretary
CPSC
Washington, DC 20207-30001

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Very Truly Yours,

Donna J. Celli

Theresa Mayenz

2/15/98

389B Gr. C. Neck Rd.

W. Babylon Ny 11704

Office of the Secretary
CPSC
Washington, DC 20207-3000 1

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Very Truly Yours,

Theresa Mayenz

Christine J. Celli
3127 REVERE CT.
Somerville NJ 08876
Feb. 15 98

Office of the Secretary
CPSC
Washington, DC 20207-30001

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Very Truly Yours,

Christine J. Celli

CPSC/OFC OF THE SECRETARY
FREEDOM OF INFORMATION
1983 MAR 24 A 9:28

792 N. William St.
Baldwin New York 11510
March 15, 1998

Office of the Secretary
CPSC
Washington, DC 20207-3000 1

Re: ANPR - Bunk beds

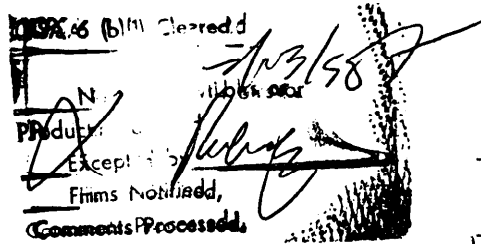
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Very Truly Yours,

Susan Devlin



Fred Forman
336 RICHARD STREET
HICKSVILLE NY 11801
2-16-98

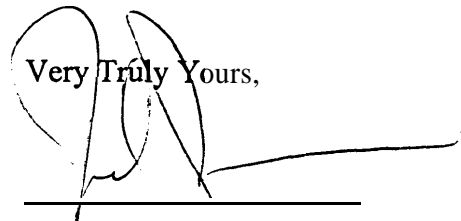
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Very Truly Yours,


Carole Luckett
239 W. Shore Rd
Oakdale, Tex 71769
Feb. 17, 1998

Office of the Secretary
CPSC
Washington, DC 20207-3000 1

Re: ANPRF - Bunk beds

To Whom It May Concern:

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Very Truly Yours,

Carole Luckett

JoAnn Scaccia

369 Twilight La

Smithtown, NY 11787

February 16, 1998

Office of the secretary
CPSC
Washington, DC 20207-3000 1

Re: ANPRF - Bunk beds

To Whom It May Concern:

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Very Truly Yours,

JoAnn Scaccia

Gregory D. Celli^o
3201 REVERE CT.
SAVERVILLE NJ 08876
FEBRUARY 15, 1998

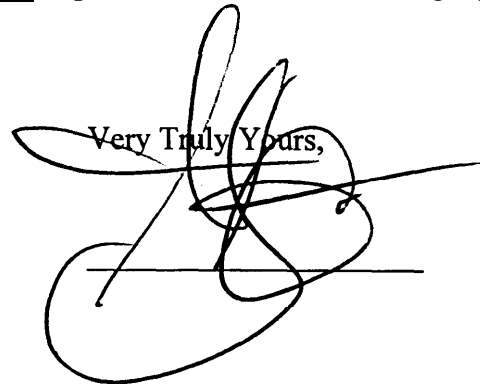
Office of the Secretary
CPSC
Washington, DC 20207-3000 1

Re: ANPRF - Bunk beds

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Very Truly Yours,


Lucille E. Celli
70-0 Farm Rd.
Hillsborough, NJ 08876
Feb. 15, 1998

Office of the Secretary
CPSC
Washington, DC 20207-30001

Re: ANPRF - Bunk beds

To Whom It May Concern:

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Very Truly Yours,

Lucille E. Celli

Laura Mayernik
25 Alden Street
Watervliet NY 12189

Feb 15, 1998

Office of the Secretary
CPSC
Washington, DC 20207-3000 1

Re: ANPRF - Bunk beds

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Very Truly Yours,

Jana J. Mayernik

Margaret A. Caesar
377 Ocean Ave.
Islip, NY 11751
2-16-98

Office of the Secretary
CPSC
Washington, DC 20207-3 000 1

Re: ANPRF • Bunk beds

To Whom It May Concern:

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Very Truly Yours,

Margaret A. Caesar

Christina Brooks
203-31 Hawthorne Ave
Central Islip, NY 11722
Feb, 16, 1998

Office of the Secretary
CPSC
Washington, DC 20207-30001

Re: ANPRF - Bunk beds

To Whom It May Concern:

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Very Truly Yours,

Christina Brooks

Ken Banschback
3643 Smith St
WANTAGH, NY 11793
2/17/98

Office of ~~the~~ Secretary
CPSC
Washington, DC 20207-30001

Re: ANPRF - Bunk beds

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Very Truly Yours,

Kenneth Banschback

ARTHUR BEITZ
P.O. Box 670412
FLUSHING, N.Y. 11367
2/17/98

Office of the-secretary
CPSC
Washington, DC 20207-30001

Re: **ANPRF** - Bunk beds

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Very Truly Yours,

Arthur Beitz

Jean Walker
195 Menoela Blvd
Menoela NY 11501
2/18/98

Office of the Secretary
CPSC
Washington, DC 20207-30001

Re: ANPRF - Bunk beds

To Whom It May Concern:

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Very Truly Yours,

Jean Walker

ANNA MAE STEIN
17 MARLBORO DR
POET LEFT STA, NY 11776

516-473-3004 2/17/98

Office of the Secretary
CPSC
Washington, DC 20207-30001

Re: ANPRF - Bunk beds

To Whom It May Concern:

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Very Truly Yours,

Anna Mae Stein

PAOLA N. DiBONO
67 GENESEE DRIVE
COMMACK N.Y. 11725
February 16, 1998

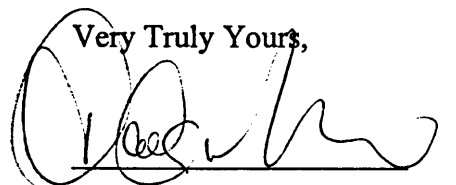
Office of the Secretary
CPSC
Washington, DC 20207-30001

Re: ANPRF - Bunk beds

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Very Truly Yours,


Lisa Krutski
42 Sochem Dr.
Mastic, NY 11950
2/17/98

Office of the Secretary
CPSC
Washington, DC 20207-30001

Re: ANPRF - Bunk beds

To Whom It May Concern:

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Very Truly Yours,

Lisa Krutski

Kathy Palmer
20 W Dennis Lane
COKAM NY 11721
2-16-98

Office of the Secretary
CPSC
Washington, DC 20207-30001

Re: ANPRF - Bunk beds

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Very Truly Yours,

Kathy Palmer

Dwayne Tranquada

230-30 87th Avenue

Bellerose, NY 11427

2/16/98

Office of the Secretary
CPSC
Washington, DC 20207-30001

Re: ANPRF - Bunk beds

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Very Truly Yours,

Dwayne Tranquada

2-16-98

Rosemarie Marcellino.
115 Village Lane
Hauppauge NY 11788

Office of the secretary
CPSC
Washington, DC 20207-3000 1

Re: ANPRF - Bunk beds

To Whom It May Concern:

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Very Truly Yours,

Rosemarie Marcellino

Karen Sanchez
1465 Motor Parkway
Hempstead, NY 11788
February 16, 1998

Office of the Secretary
CPSC
Washington, DC 20207-30001

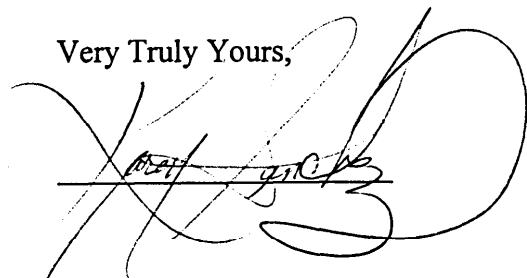
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Very Truly Yours,


Karen Sanchez

LORI Schlegel
PO Box 1463
Ronk NY 11779
2/16/98

Office of the Secretary
CPSC
Washington, DC 20207-30001

Re: ANPRF - Bunk beds

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Very Truly Yours,

Lori Schlegel

PHILIP M. LOPRESTI
407 JEFFREY AVENUE
EAST MEADOW, N.Y. 11558
2-16-98

Office of the Secretary
CPSC
Washington, DC 20207-30001

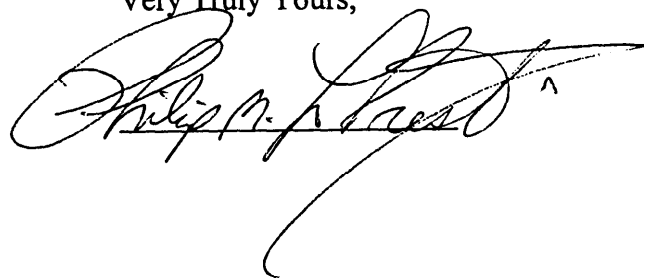
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Very Truly Yours,

A handwritten signature in black ink, appearing to read "Philip M. Lopresti", with a long, sweeping flourish extending from the bottom right.

Heather Belfiore
18 East 24th Street
Huntington Station, NY 11746
Feb 16 1998

Office of the Secretary
CPSC
Washington, DC 20207-30001

Re: ANPRF - Bunk beds

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Very Truly Yours,

Heather Belfiore

Tuan S. Dictor

16 Dione Lane

Hauppauge NY 11788

Feb. 16, 1998

Office of the Secretary
CPSC
Washington, DC 20207-30001

Re: ANPRF - Bunk beds

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Very Truly Yours,

Tuan S. Dictor

Felix Gonzalez
337 Tyler Ave
Miller Place N.Y.

11764 2/17/98

Office of the Secretary
CPSC
Washington, DC 20207-30001

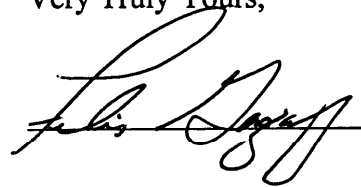
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Very Truly Yours,

A handwritten signature in cursive script, appearing to read 'Felix Gonzalez', written over a horizontal line.

Kenn Bowler
34 Club Rd
Sec Cliff, NY
2/16/98 11579

Office of the Secretary
CPSC
Washington, DC 20207-30001

Re: ANPRF - Bunk beds

To Whom It May Concern:

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